

Section: Evaluation 8 VAC 20-80-54

Topic: Evaluation Timelines *(last post 6/5/01)*

Question 1-01: When does the 65 business day timeline start when completing an evaluation for initial eligibility?

Answer 1-01: “All children . . . who are suspected of having a disability, shall be referred to the special education administrator or designee, who shall initiate the process of determining eligibility for special education and related services.” (8 VAC 20-80-52 A) The timeline begins upon “receipt of the referral by the special education administrator or designee” (8 VAC 20-80-54 H 1), even if the special education administrator or designee refers the child to a child study committee.

Preferred Practice - If the referring party uses language that indicates a disability is suspected or an evaluation for special education is indicated, then this shall be accepted as a referral for special education evaluation, and should be made to the special education administrator or designee. The receipt of the referral by the special education administrator or designee begins the 65 business day timeline.

If the referring party indicates that there are concerns about how the child is doing in school, but makes no mention of a disability or special education, this would be considered a referral for child study committee. If, when reviewing the information about the child, the child study committee suspects a disability and determines the child should be referred for a special education evaluation, it shall refer the child to the special education administrator or designee within 5 business days of making that determination. If the administrator of special education refers to the child study committee, the 65 business day timeline is not extended (i.e., the 65 business day begins with initial receipt of referral and the referral to child study committee does not increase the timeline.)

If it is unclear what the referral source is requesting, it would be appropriate to interview the referral source to gather more information. If such interview suggests the referral source is requesting a special education evaluation, it should be treated as such, rather than a referral to child study committee.

Each local education agency (LEA) identify the special education designee(s) and inform personnel throughout the LEA and include in the public awareness materials that are designed to generate referrals (8 VAC 20-80-50 B 1 b).

Question 1A-01: Can local educational agencies exceed the 65 business day requirement for completion of the evaluation and making a decision regarding eligibility for special education and related services?

Answer 1A-01: No.

Question 1B-01: If, at an eligibility meeting, the group identifies that additional tests are needed to make a decision regarding eligibility, what is the procedure for conducting the evaluation? What is done at the eligibility meeting if a decision cannot be made? What is the procedure for conducting an additional evaluation that the group identifies is needed to develop services?

Answer 1B-01: “The effective use of a team with the same composition as the IEP team to determine needed evaluation data will enable schools to identify all the necessary components to determine eligibility before conducting the evaluations. The process of reviewing all existing data, including information from the parents and observations from teachers and related service providers, should identify all potential areas that need to be assessed. The team thoroughly consider all possible assessments that may be needed, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, motor abilities, and adaptive behavior.” (8 VAC 20-80-54 C; 8 VAC 20-80-54 E 15)

Preferred Practice - In extremely limited circumstances, the data from an assessment conducted following this meeting suggests that an additional assessment is needed. In this case, the team shall immediately review the new data and determine if additional evaluation data is needed. The professional conducting the assessment that suggests the need for an additional assessment should explain why assessment results suggest an additional assessment and secure the opinions of the entire team. If the team concurs, parental consent for the additional evaluation shall be obtained promptly, and the assessment conducted in an expedited fashion.

The meeting to determine eligibility shall be held no later than 65 business days after the referral was received by the administrator of special education or designee. This date shall not be extended by the decision to conduct additional assessments. If additional data are needed and the testing can not be scheduled within the 65 business day time line (e.g., student absences, scheduling with an outside assessor), the group determining eligibility should determine if it has sufficient data to make a decision regarding eligibility based on the available data. If so, eligibility should be determined and the additional evaluation used in IEP development.

Frequently, suggested additional data is not necessary to determine if the child is eligible for special education, but rather, to determine the nature of the special education and related services the child needs. In such situations, the team shall identify that additional assessment information is needed, secure parental consent, and conduct the assessment prior to IEP development. The assessment shall be completed and IEP meeting scheduled within 30 calendar days of the meeting when eligibility was determined.

If eligibility cannot be determined without the additional information (in noncompliance with the timelines established in the state regulations), the following practice is recommended: the eligibility document shall reflect (a) why that particular evaluation data was not identified during the initial meeting to determine needed evaluation data; (b) why the assessment could not be completed prior to the eligibility meeting; and (c) when the eligibility meeting will be completed. The evaluation shall be conducted and meeting held in an expedited fashion.

Question 1C-01: If, at the IEP meeting, the IEP team wishes to add a related service and believes that an evaluation is necessary, what is the time frame for completion of the evaluation?

Answer 1C-01: “The IEP team shall first review all evaluation and re-evaluation information to determine if it has enough information to make a decision regarding the students needs to add a related service to the IEP (8 VAC 20-80-56 D; 8 VAC 20-80-62 E 1 b). If additional evaluation information is needed, it shall be completed with deliberate speed. Prior written notice shall be provided and parental consent for the evaluation shall be secured” (8 VAC 20-80-54 G; 8 VAC 20-80-70 C; 8 VAC 20-80-70 E 1 a).

Preferred Practice - It is recommended that the evaluation is completed and the IEP meeting rescheduled within 30 calendar days.